

than losses from, or which under section 165(g) or 1231(a) are treated or considered as losses from, sales or exchanges of capital assets and other than losses described in section 165(i)(1)) sustained by reason of the expropriation, intervention, seizure, or similar taking of property by the government or any foreign country, any political subdivision thereof, or any agency or instrumentality of the foregoing. For purposes of the preceding sentence, a debt which becomes worthless in whole or in part, shall, to the extent of any deduction allowed under section 166(a), be treated as a loss allowable as a deduction under section 165.

(2) *Portion of the net operating loss attributable to a foreign expropriation loss.*

(i) Except as provided in subdivision (ii) of this subparagraph, the portion of the net operating loss for any taxable year attributable to a foreign expropriation loss is the amount of the foreign expropriation loss for such taxable year (determined under subparagraph (1) of this paragraph).

(ii) The portion of the net operating loss for a taxable year attributable to a foreign expropriation loss shall not exceed the amount of the net operating loss, computed under section 172(c), for such year.

(3) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example 1. M Corporation, a domestic calendar year corporation manufacturing cigars in the United States, owns, in country X, a tobacco plantation having an adjusted basis of \$400,000 and farm equipment having an adjusted basis of \$300,000. On January 15, 1961, country X expropriates the plantation and equipment without any allowance for compensation. For the taxable year 1961, M Corporation sustains a loss from the operation of its business (not including losses from the seizure of its plantation and equipment in country X) of \$200,000, which loss would not have been sustained in the absence of the seizure. Accordingly, M has a net operating loss of \$900,000 (the sum of \$400,000, \$300,000, and \$200,000). For purposes of section 172(k)(1), M Corporation has a foreign expropriation loss for 1961 of \$700,000 (the sum of \$400,000 and \$300,000, the losses directly sustained by reason of the seizure of its property by country X). Since the foreign expropriation loss for 1961, \$700,000, equals or exceeds 50 percent of the net operating loss for such year, or

\$450,000 (i.e., 50 percent of \$900,000), M Corporation may make the election under paragraph (c)(2) of this section with respect to \$700,000, the portion of the net operating loss attributable to the foreign expropriation loss.

Example 2. Assume the same facts as in *Example 1* except that for 1961, M Corporation has operating profits of \$300,000 (not including losses from the seizure of its plantation and equipment in country X) so that its net operating loss (as defined in section 172(c)) is only \$400,000. Under the provisions of section 172(k)(2) and paragraph (b)(2) of this section, the portion of the net operating loss for 1961 attributable to a foreign expropriation loss is limited to \$400,000, the amount of the net operating loss.

(c) *Time and manner of making election*—(1) *Taxable years ending after December 31, 1963.* In the case of a taxpayer who has a foreign expropriation loss for a taxable year ending after December 31, 1963, the election referred to in paragraph (a) of this section shall be made by attaching to the taxpayer's income tax return (filed within the time prescribed by law, including extensions of time) for the taxable year of such foreign expropriation loss a statement containing the information required by subparagraph (3) of this paragraph. Such election shall be irrevocable after the due date (including extensions of time) of such return.

(2) *Information required.* The statement referred to in subparagraph (1) of this paragraph shall contain the following information:

(i) The name, address, and taxpayer account number of the taxpayer;

(ii) A statement that the taxpayer elects under section 172(b)(3)(A)(ii) or (iii), whichever is applicable, to have section 172(b)(1)(D) of the Code apply;

(iii) The amount of the net operating loss for the taxable year; and

(iv) The amount of the foreign expropriation loss for the taxable year, including a schedule showing the computation of such foreign expropriation loss.

(d) *Amount of foreign expropriation loss which is a carryover to the taxable year in issue*—(1) *General.* If a portion of a net operating loss for the taxable year is attributable to a foreign expropriation loss and if an election under paragraph (a) of this section has been made with respect to such portion of the net operating loss, then such portion shall